

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
CRIMINAL DIVISION

CRIMINAL REVISION NO. 80 OF 2016

DAWIT ABARA TESFAYE.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

The Applicant was charged with four counts of steali, forgery, uttering a false document and being unlawfully in Kenya. He was found guilty in all the four counts and sentenced to pay a fine Kshs. 100,000/= in respect of each of the counts or serve 6 months imprisonment. The sentence was passed on 21st January, 2015. Pursuant to Section 364 of the Criminal Procedure Code, the Applicant asks the court to satisfy itself as to the correctness, regularity or legality of the sentence passed. He urges the court to revise the same and set him free. He was also ready to go back to his home country in Ethiopia by road. He intimidated that he would buy a bus ticked to actuate the same. As at the date of hearing the application on 13th December, 2016, he informed the court that he only had one month to complete the sentence. The respondent did not oppose the application but urged that the Applicant be released to the Deportation Centre so that he could be repatriated to his home country.

I have considered the application. It is true that the Applicant is just about to complete his sentence and it serves no purpose to continue holding him in remand. After all, he will just consume tax payers' money having been unable to raise the fines. His application must succeed in any event. I allow the same with an order that he be and is hereby forthwith set free having served sufficient punishment. He shall be released to the Immigration Deportation Centre for purposes of repatriation to his home country, Ethiopia. It is so ordered.

DATED and DELIVERED this 21st day of DECEMBER, 2016.

G.W. NGENYE-MACHARIA

JUDGE

In the presence of:

1. *Applicant in person*
2.for the Respondent.